

conveying the patient to the hospital for the insane, or to the authorities of another state, shall be paid out of the state treasury in the usual manner.

Approved February 25, 1929.

COURTS

CHAPTER 110

(H. B. No. 143—Judiciary Committee.)

PURCHASE DIGEST SUPREME COURT DECISIONS

An Act to provide for the purchase, sale and distribution of a digest of the decisions of the supreme court and making an appropriation therefor.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. The supreme court reporter, under the direction and control of the judges of the supreme court, is hereby authorized to purchase two hundred fifty copies of a digest of the decisions of the supreme court now in course of publication, for the use of the judges of the supreme and district courts of this state and of the county officers now entitled to receive copies of the North Dakota reports.

§ 2. The digests purchased under Section 1 of this act shall be distributed to the county officers as the supreme court reports are distributed and it shall be the duty of the auditor of each county to issue a county warrant for the same at a price prescribed by the supreme court reporter, which shall not be greater than the net cost to the state plus transportation charges. The supreme court reporter shall deliver one copy of such digest to each judge of the supreme and district courts of this state, two copies to the attorney general, and one copy to the governor, which copies shall remain the property of the State of North Dakota and be delivered by the recipients to their successors in office.

§ 3. Warrants issued in payment for digests distributed under this act shall be made payable to the supreme court reporter and the proceeds thereof shall be covered by him monthly into the state treasury to be kept in the fund known as the Supreme Court Reporter Fund. The appropriation made for the purchase of such

digests shall also be kept in the supreme court reporter fund and from this fund all disbursements shall be made in connection with the purchase of such digests.

§ 4. There is hereby appropriated, for the purpose of this act, out of any moneys in the state treasury not otherwise appropriated, the sum of one thousand dollars.

Approved March 7, 1929.

CHAPTER 111

(S. B. No. 85—Forbes.)

TERMS AND LOCATION OF CHAMBERS, DISTRICT COURT

An Act to amend and re-enact Chapter 122 of the Laws of 1925, being Section 769a2 of the Supplement to the 1913 Compiled Laws of North Dakota, relating to terms of district court and the location of court chambers.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

That Chapter 122 of the Laws of 1925, being Section 769a2 of the Supplement to the 1913 Compiled Laws of North Dakota, be, and it is, hereby amended and re-enacted to read as follows:

§ 769a2. AMENDMENT.] The terms of court to be held in each county in the several judicial districts, and the location of the judges' chambers shall be fixed by order of the supreme court in such manner that the judges in each judicial district may have a circuit within their district and so that no judge shall, without permission of the supreme court, for good cause shown, hold two consecutive jury terms of court in any county in his district, except in the counties of Cass and Burleigh; and in said county of Cass the terms of court thereof shall be held as follows, until otherwise provided by law, to-wit: terms of the district court shall be held therein at the county seat on the first Tuesday of each month in the year except July and August, but a jury shall only be called for the January, February, March, November and December terms unless, in the opinion of the judge, there is sufficient business to demand a jury for any other term or terms; provided, however, that the court may, if deemed advisable, continue the jury called at the January term as the jury for the February or February and March terms, and the jury called at the November term as the jury for the December term.

Approved March 9, 1929.

CHAPTER 112

(H. B. No. 171—Carter.)

JUSTICES OF PEACE PROHIBITED FROM ACTING CERTAIN CASES

An Act to prohibit justices of the peace and police magistrates from acting in any capacity as such magistrates in suits brought in their own courts to enforce collection of debts or claims in which they are themselves interested, or act as agents or attorneys for the creditor; and to provide a penalty for the violation hereof, which penalty includes removal from office.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. No justice of the peace or police magistrate shall issue a summons or other process in any action before himself as a magistrate in which he shall have any personal or pecuniary interest, either for himself or as agent or attorney for any other person.

§ 2. Any summons or other process issued in violation of the foregoing section shall be an absolute nullity.

§ 3. If any such magistrate shall issue any summons or other process in violation of Section One of this act, and the same shall be served upon any person, either by personal or by substituted service, such magistrate shall be guilty of a misdemeanor; and upon conviction thereof shall be punished by a fine of not to exceed two hundred dollars or by imprisonment in the county jail for not to exceed six months or by both such fine and imprisonment, and the judgment of conviction shall in every case adjudge the removal of the defendant from his office of magistrate.

Approved March 7, 1929.

CHAPTER 113

(H. B. No. 225—Kneeland.)

JUVENILE COURTS

An Act to amend and re-enact Sections 11402, 11405 and 11406 of the Compiled Laws of North Dakota for the year 1913, and Section 11428a1 of the Supplement to the 1913 Compiled Laws of North Dakota.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] That Section 11402 of the Compiled Laws of North Dakota for the year 1913 is hereby amended and re-enacted to read as follows:

§ 11402. CHILDREN WARDS OF THE STATE.] That all dependent, neglected and delinquent children under the age of eighteen years, shall, for the purpose of this act only, be considered wards of the state and their persons shall be subject to the care, guardianship and control of the court as hereinafter provided; and, at the discretion of the court, such care, guardianship and control may be continued until the ward shall have attained the age of twenty-one years.

§ 2. AMENDMENT.] That Section 11405 of the Compiled Laws of North Dakota for the year 1913 is hereby amended and re-enacted to read as follows:

§ 11405. JUVENILE COURT.] The court, for convenience, shall be called "The Juvenile Court" and as far as possible said court shall be held in chambers. The clerk of the district court shall be clerk of said court, and shall file all papers, including the findings and final orders in proceedings had under this chapter; he shall note the date of such filings on the papers and shall enter final orders in a book to be known as "The Juvenile Court Record," which book shall be kept exclusively for that purpose. Said records and papers shall be subject to examination by said clerk, the district judge and the juvenile commissioner or commissioners, and by others only upon written order of the district judge.

§ 3. AMENDMENT.] That Section 11406 of the Compiled Laws of North Dakota for the year 1913 is hereby amended and re-enacted to read as follows:

§ 11406. INFORMATION, INVESTIGATION, PETITION.] Any person having information that a child is dependent, neglected or delinquent as defined by Section 1 hereof, (Section 11402), may give such information to the district judge or to a juvenile commissioner. Thereupon the judge or commissioner shall make a preliminary inquiry to determine whether the interests of the child or of the public require that further action be taken. Whenever practicable such inquiry shall include a preliminary investigation of the home and environmental conditions of the child's life and the history, facts and circumstances of the condition alleged or of the misconduct complained of. If it shall appear that it is for the best interests of the child and this state that the child be taken from its parent, parents, custodian or guardian and placed under the guardianship of some suitable person to be appointed by the court, and that formal jurisdiction over the child should be acquired, a petition, which may be made by any person having knowledge of the facts, including the commissioner, setting forth the charge or complaint made, and giving the information hereinafter set forth, may, on the order of the court, be filed.

The petition shall set forth the particular facts, circumstances and conditions which bring the child within the provisions of this chapter, and also: (1) the name, age and residence of the child; (2) the names and residences of his parents, if living; (3) the name and residence of the guardian appointed by legal authority, if there be one; (4) the names and residences of the person or persons having custody and control of the child, if the child is not in the custody of his parents; and (5) the name and residence of the nearest known relative, if no parent or guardian can be found. If any of the facts herein required are not known or cannot be ascertained by the petitioner, the petition shall so state. The petition shall be filed with the clerk of court when, and only when, the district judge shall indorse thereon that it shall be so filed.

The venue of all petitions shall be in the county where the child resides, or where the delinquency, dependence or neglect has arisen, existed or was committed. The petition and all subsequent proceedings thereon shall be entitled in the name of the state as plaintiff and the child, parents, guardian, and those having custody or control of the child, whether known or unknown, as defendants. All persons whose names are stated in the petition to be unknown shall be deemed and taken as defendants by the designation of "all persons whom it may concern." Process shall be issued against all persons unknown, made parties by the designation of "all persons whom it may concern," and notice given by publication as required by this act shall be sufficient to authorize the court to hear and determine the action the same as though the said parties had been named by their proper names. The petition shall be verified by affidavit and such verification may be upon information and belief of the affiant. When the same is presented to the court, the district judge shall by order indorsed upon the petition fix the time and place for the hearing upon said petition and therein direct that summons be issued returnable accordingly. The action thus commenced shall be deemed pending in the juvenile court of such county from the time of the making of said order until final disposition. Hearings thereon may be had as directed by the judge, either at the county seat of the county in which the venue is laid, or at the chambers of the judge. All orders made by the court therein, whether or not the child has been committed to a state institution, shall be subject to the further orders of the court made either upon hearings had or upon the motion of the court or the judge thereof. Any order having the effect of removing the child from the care and control of his parents, guardian or custodian, shall be based upon evidence taken on the hearing on said petition, and upon findings of fact made therefrom by the district judge, that the parent, parents, custodian or guardian of such child are unfit or improper guardians, or are unable or are unwilling to care

for, protect, train, educate, correct, control and discipline such child, or that the parent, parents, guardian or custodian consent that such child be taken from them.

Any evidence given or statement made in such action, or disposition or order made therein, shall not, in any civil, criminal or other cause or proceeding in any court be lawful or proper evidence against such child for any purpose whatever, except in subsequent cases against the same child under this act; nor shall the name of such child in connection with any proceedings under this act be published in any newspaper, (except in the publication of the summons when necessary as hereinafter provided) without first obtaining the written order of the court having jurisdiction, permitting the same.

§ 4. AMENDMENT.] That Section 11428a1 of the Supplement to the 1913 Compiled Laws of North Dakota is hereby amended and re-enacted to read as follows:

§ 11428a1. JUVENILE COMMISSIONERS: JURISDICTION, POWERS AND DUTIES.] In order to more fully carry out the provisions of Chapter 177 of the Laws of the State of North Dakota for the year 1911, entitled "Juvenile Court," (same being Sections 11402 to 11428, inclusive, Compiled Laws 1913) each district judge shall appoint two suitable and discreet persons, one of each sex, of good moral character, as juvenile commissioners. Such male juvenile commissioner shall have exclusive jurisdiction over boys over the age of ten years, such woman juvenile commissioner shall have exclusive jurisdiction over girls over the age of ten years and both shall have concurrent jurisdiction over children ten years of age and under. Said commissioners shall have power to administer oaths; take acknowledgments of instruments, receive complaints and issue warrants for the arrest of persons thereon; to examine fully into the merits of each case; issue subpoenas; compel the attendance of witnesses before them and to report them to the district judge for contempt proceedings for non-attendance or refusal to be sworn or testify as provided by Section 8200 Compiled Laws of 1913; to make such temporary order for the custody and control of the child or children thus brought before them as they may deem proper, except that no child under the age of six months shall be separated from its mother, and generally have the usual powers of a referee as provided by Article VII of Chapter 11 of the Code of Civil Procedure for the trial of civil actions, in addition to the powers herein specially given. Each commissioner shall from time to time, and as directed furnish reports of the administration of his office to the district judge and to the board of administration, which reports shall contain all information and statistical details required by either the judge or the said board of administration.

When in the opinion of such commissioners or that of the court a final order for the custody or control of such child or children becomes necessary, either by sending the same to the state training school or other institution of this state; or to deprive the parents of their custody, and give the same to some other person or persons, either for the purpose of temporary control or permanent adoption, it shall be the duty of such commissioners to make findings and report the same with their recommendations to the district judge, who shall fix a reasonable time and place for hearing, and thereafter make such final judgment or order in the case as he shall deem proper and right.

§ 5. All acts and parts of acts inconsistent herewith are hereby repealed.

Approved March 8, 1929.

CRIMES AND PUNISHMENTS

CHAPTER 114

(H. B. No. 191—Indergaard.)

DEFINING AGGRAVATED ASSAULT AND BATTERY— PUNISHMENT

An Act defining the crime of aggravated assault and battery and prescribing the punishment therefor.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. Every person who, without justifiable or excusable cause and with intent to do great bodily harm, wilfully and unlawfully commits any assault and battery upon the person of another and thereby inflicts any grievous bodily harm upon such other person, shall be guilty of the crime of aggravated assault and battery and shall be punishable by a fine of not more than one thousand dollars (\$1,000.00), or be imprisoned in the county jail for not more than one year or imprisoned in the penitentiary for not more than one year, or by both such fine and imprisonment.

Approved March 11, 1929.